

1 LENARD E. SCHWARTZER
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5 TRUSTEE

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8 **UNITED STATES BANKRUPTCY COURT**
9 **DISTRICT OF NEVADA**

10 In re) Case No. BK-S 15-16662 MKN
11 COLVIN, PARNELL) IN PROCEEDINGS UNDER CHAPTER 7
12) TRUSTEE'S MOTION TO DISMISS CASE
13) PURSUANT TO BANKRUPTCY CODE §§ 343
14 Debtor.) AND 521(e)
15) Date: March 3, 2016
16) Time: 11:00 a.m.
17) Place: Foley Bldg., Third Floor

18 The Motion of Lenard E. Schwartz (the "Trustee") to dismiss this case represents:

19 1. Debtor filed for relief under the Bankruptcy Code on November 30, 2015, and the
20 Trustee has duly qualified and is now acting as the Chapter 7 Trustee of the estate of the above-
21 referenced debtor.

22 2. Debtor failed to provide Trustee with his 2013 and 2014 Federal Income Tax Returns
23 seven (7) days before the 341 meeting conducted in this case and Debtor has failed to provide any
24 explanation for said failure.

25 3. There has been a continued 341 meetings to allow the Debtor to provide his tax returns
26 and answer questions that may arise from the trustee's review of his tax return.

27 4. Bankruptcy Code § 521(e) provides:

28 (1) If the debtor in a case under chapter 7 or 13 is an individual and if a creditor files
with the court at any time a request to receive a copy of the petition, schedules, and

statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.

(2)

(A) The debtor shall provide—

(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and

(ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.

(B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.

5. Also, Debtor failed to attend his 341a hearing scheduled for January 4, 2016

6. Debtor has a duty to attend the meeting of creditors under § 341(a) and be questioned by the Trustee. Bankruptcy Code §343.

7. Bankruptcy Code § 521(a)(3) provides:

(3) . . . cooperate with the trustee as necessary to enable the trustee to perform the trustee's duties under this title.

8. This Court has authority to dismiss this case. *In re Ventura*, 375 B.R. 103, 108 (Bankr. E.D.N.Y. 2007).

WHEREFORE, Trustee prays for an order dismissing this case, and such other and further relief as is just and proper.

DATED: January 28, 2016


LENARD E. SCHWARTZ, TRUSTEE

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DECLARATION OF TRUSTEE

I declare, under penalty of perjury, that the foregoing is true and correct, to the best of my knowledge, information and belief.

DATED: January 28, 2016



LENARD E. SCHWARTZER